UNITED NATIONS

CERD

International Convention on the Elimination of all Forms of Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1138
9 April 1996

ENGLISH
Original: FRENCH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-eighth session

SUMMARY RECORD OF THE 1138th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 4 March 1996, at 10 a.m.

Chairman: Mr. GARVALOV

CONTENTS

SOLEMN DECLARATION BY THE NEWLY ELECTED MEMBERS OF THE COMMITTEE UNDER RULE 14 OF THE RULES OF PROCEDURE (continued)

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Tenth, eleventh and twelfth periodic reports of Denmark (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.96-15477 (E)

The meeting was called to order at 10.05 a.m.

SOLEMN DECLARATION BY THE NEWLY ELECTED MEMBERS OF THE COMMITTEE UNDER RULE 14 OF THE RULES OF PROCEDURE (agenda item 2) (continued)

1. The CHAIRMAN invited Mr. Diaconu, who had hitherto been absent, to make the declaration provided for by rule 14 of the rules of procedure.

2. Mr. DIACONU made the declaration. He then thanked the members of the Committee for their condolences.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Tenth, eleventh and twelfth periodic reports of Denmark (CERD/C/280/Add.1) (continued)

3. At the invitation of the Chairman, the members of the delegation of Denmark took places at the Committee table.

4. Mr. KLINGENBERG (Denmark) said that the members of the Danish delegation would endeavour to reply to the various questions asked at the previous meeting by the members of the Committee, grouping them by topic.

5. Mr. MIKKELSEN (Denmark), in reply to the question whether the protection for human rights provided for by the Constitution could be extended to include protection against racial discrimination, said that in both legal and practical terms, protection against racial discrimination did not depend solely on the Constitution. He pointed out, moreover, that the procedure relating to amendment of the Constitution was extremely strict.

6. In reply to the question about the laws regulating the registers of public authorities and private bodies, he said that the Act on the registers of public institutions (sect. 9, para. 2) prohibited the recording of certain purely private data, including data relating to race and skin colour, although the prohibition did not apply if the data were essential to draw up the register concerned. Moreover, the Act on the registers of private bodies prohibited the registration of such data unless they were provided by the persons themselves or obtained with their consent - in which case the persons had to be informed that the data had been registered - or if the authority required the data to protect legitimate public or private interests. His delegation was prepared to provide information on the practical implementation of those provisions in the next periodic report.

7. With regard to the conviction of the former Minister of Justice for unlawful obstruction of immigration procedures, he pointed out that the Minister had been charged with violating the provisions of section 5 of the Act on ministerial responsibility, but not with racial discrimination.

8. As far as the practical implementation of section 266 (b) of the Penal Code was concerned, since 1 June 1995 the section in question had contained a new provision under which racial motivation constituted an aggravating circumstance to an offence. The memorandum annexed to the bill submitted to

Parliament in 1995 clearly explained that the bill was intended to increase the penalties laid down for certain forms of violations, and in particular to prevent Denmark from becoming a sanctuary for Nazi and racist propaganda. With the adoption of that new provision, public prosecutors no longer had any reason to hesitate before prosecuting ex officio any violations of section 266 (b) of the Penal Code. Moreover, prosecutors had been specifically informed of the practical consequences for them of those provisions.

9. The possibility of instituting prosecutions at the request of the victim had been considered, although Parliament had not yet taken a decision. He pointed out that the concept as such was unknown under Danish law and might, in the case of racial discrimination, detract from the responsibility of the Government to ensure effective protection against racial discrimination. The use of the word "might" in paragraph 30 of the report, which Mr. Garvalov had criticized, was merely a translation error.

10. Mr. Yutzis had asked why scientific theories and serious debates on racial differences did not fall within the scope of the offences described in section 266 (b) of the Penal Code. That interpretation derived from the origin of section 266 (b). The courts were responsible for determining, in each case, the scope of the section's provisions. The same applied to the statement by the Attorney-General, referred to by Mr. Chigovera, according to which section 266 (b) should only be used in the case of blatant violations. Clearly, at the present time the interpretation of section 266 (b) should take into account the factors that had lead to the adoption, in 1995, of the new paragraph 2 of the section.

11. Regarding the selection of jurors, he explained that jurors and lay judges were chosen for four years from lists drawn up in each town by a five-member committee appointed by the municipal council. In order to appear on the list, persons had to possess voting rights in national elections, to be eligible for election and to be aged under 70 for the whole of the four-year period. Jurors and lay judges were appointed to a case, in the order in which they appeared on the list. In addition, the persons chosen had to represent all sectors of the population on an equitable basis. The aim of the system was to ensure that jurors were motivated and highly qualified. Members of minorities had the same possibilities as other citizens to act as jurors or lay judges. The Ministry of Justice was not aware of any studies showing the percentage of jurors and lay judges from minorities, but he assured the Committee that everything was being and would be done to prevent any racial bias in that sphere.

12. The Act on the prohibition of discrimination in public services and access to public places referred to by Mr. Valencia Rodriguez made no distinction between non-profit-making and other enterprises. Regarding complaints about police conduct, he pointed out that a new system had been introduced as from 1 January 1996, for the filing of such complaints. Henceforth, authority to investigate and decide in respect of complaints lay with the Attorney-General and not with the local police station. In addition, an independent supervisory committee had been set up.

13. In reply to a question by Mr. Rechetov, he said that the International Convention on the Elimination of All Forms of Racial Discrimination had been translated into Danish before its ratification. He also said that since the Second World War no association had been dissolved under section 78 of the Constitution. Dissolution was not of paramount importance in combating discrimination. Dehmark gave priority to prosecution and to information campaigns.

14. Mrs. GRONBORG-PEDERSEN (Denmark), replying to Mr. Banton about a report published in 1991 in a Danish magazine that the Danish courts had deemed it to be criminally libellous to describe Danish society as racist, said that it was impossible to identify the actual case to which the article had referred.

15. In order to encourage young people of foreign origin to join the police, access to which was open to all without distinction, the Ministry of Justice and the police forces had planned a number of initiatives, especially in the field of training.

16. Mr. Banton had referred to numerous cases of violence that were not included in the figures provided in the report relating to violations of section 266 (b) of the Penal Code. The cases in question actually came under other sections of the Penal Code. Most of them did not involve violent attacks or racially motivated arson, and although the offences concerned were extremely serious, there was no reason to believe they had been committed by neo-Nazis. Since 1992, the police had been monitoring the situation in that regard.

17. Regarding the granting of a local broadcasting licence to the Danish National Socialist Movement (DSNB), the law did not authorize refusal of a licence merely on the grounds that it might be used for the wrong ends. However, the Local Broadcasting Board was closely monitoring the organization's broadcasts and the recorded messages it transmitted by telephone.

18. The four persons who had placed a burning cross in the garden of a Turkish family (report, para. 56) had been fined, as the High Court had taken into account their youth.

19. She was unaware to which precise cases the Board for Ethnic Equality had been referring in its report when it had stated that many persons of non-Danish origin had been unacceptably treated by the police; however, she said that a group on cooperation had been set up, comprising representatives of the Board and of the police, to identify means of establishing optimum relations between the police and ethnic minorities.

20. The Ministry of Justice was able to assert that the training of law-enforcement officials in Denmark closely followed the Committee's General Recommendation XIII, as great importance was attached to relations between law-enforcement agencies and the members of ethnic minorities in the basic training of law-enforcement officials. The three-year training was provided at police college and was designed to shape policemen's attitudes by teaching them national and international rules of law concerning aliens, by providing them with the necessary sociological and psychological knowledge and by

teaching them to put themselves in the position of the aliens with whom they dealt. The training continued during the officials' service and focused in particular on the cultures and religions of aliens and on society's perception of them. The members of the police who were in contact with asylum-seekers were given even more specialized training.

21. The results of the training were assessed in the light of the overall guidelines for the law-enforcement agencies, which emphasized the importance of a courteous attitude towards aliens and respect for their dignity on the part of policemen. Within the police forces there was an agency answerable to the Board for Ethnic Equality, which examined the conduct of police forces towards aliens, and the Ministry of Justice and the central police authority had introduced measures to punish departures from those guidelines. In addition, a measure adopted in January 1996 made it possible for aliens who considered they had been offended by the attitude of a member of the police, to complain. Complaints were examined by the prosecutor in conjunction with the Police Complaints Board, composed of a lawyer and two non-specialists. Leaflets were being prepared at government expense in order to inform migrants of the complaints procedure. An applicant whose complaint was turned down could always appeal against the decision.

22. One of the experts had referred to attacks against non-Danes and had suggested that they did not enjoy the same guarantees for their safety as ethnic Danes. The Ministry of Justice was informed of such incidents by the reports submitted by police superintendents; an investigation was carried out in all cases and the Ministry could assert that aliens were far from being the only victims of attacks. It was hard to distinguish racist attacks from attacks of other kinds, although all the relevant details of the victim and his case were taken into account to determine whether the attack was racist. The practice of submitting those reports, which dated from November 1992, had been strengthened in December 1995 so as to centralize information on attacks and to make it possible to determine how many were racially motivated.

23. She also mentioned an initiative involving schools, the social services and the police which was intended to prevent racially motivated crime in particular.

24. Mrs. COHN (Denmark), replying to a question on the use of excessive force against foreign prison inmates, the measures taken in that respect and the training of prison warders, said that in September 1990 the Ministry of Justice had initiated an investigation into the treatment of inmates in Copenhagen's prisons, and subsequently into the circumstances of the arrest and treatment of two aliens, one a Tanzanian and the other a Gambian, in 1990. The interim report on the investigation criticized some of the actions by the police and prison personnel although it did not find that the acts incriminated constituted torture or cruel, inhuman or degrading treatment. The report had given the Copenhagen prison administration an opportunity to remind its staff of the rules governing the use of force. The final report, which had been published in February 1993, had found that the Copenhagen prison administration employed staff who were capable of dealing with the particular problems posed by the presence of alien detainees. The prison service increasingly employed personnel that had been properly trained in dealing with crises and the specific problems of aliens and in the social and

psychological aspects of their conduct towards aliens. The training began before candidates joined the prison staff and familiarized them with the international conventions, including the International Convention on the Elimination of All Forms of Racial Discrimination. Theoretical and practical training continued during their employment and included compulsory and optional courses provided by doctors, nurses, teachers and administrators. She emphasized that, rather than by theoretical knowledge, aptitude for the job was judged by the desire shown by the official to put his knowledge into practice and by his attitude towards the alien prison population.

25. She also said that a working group had drawn up guidelines on the use of force and security, that another group was currently preparing guidelines on conflict management and that a Nordic working group was responsible for keeping those issues permanently under review. Where complaints by detainees were concerned, a working group was currently preparing a bill on the conditions under which sentences were served.

26. Mrs. CHRISTENSEN (Denmark) first of all replied to the comments made on paragraph 15 of the report, and in particular the last sentence of the paragraph. Contrary to what some of the experts might have understood, Denmark in no way underestimated the importance of racial discrimination and expression of racial hatred, but it did distinguish between racial discrimination in the strict sense of the word and everyday expressions of hostility towards aliens, which could be heard everywhere, particularly during times of unemployment. Those expressions were occasionally irrational and were as a rule attributable to ignorance of the actual circumstances of minorities and of the benefits they received, but they did not infringe the law. The rest of the report clearly showed that the Government was trying to combat those feelings of hostility. In particular, it had subsidized a youth movement against racism and frequently issued press releases addressed to the population. Where acts that were truly intolerable and unlawful were concerned, the Government's only source of information was the judicial system, and according to that source cases of unlawful racial discrimination were far less numerous than those which fell into the first category. That in no way meant that Denmark minimized the importance of the latter.

27. Overall integration policy was far more apparent in practice than in theory. It was a policy based on equality, and was illustrated, for example, by the rarity of restrictions on the right to receive social benefits or to take part in elections. The Ministry of the Interior was currently formulating a clear and well-defined integration policy. It had set up a committee whose members were drawn from all parts - including ethnic minorities - which was responsible for drawing up reception and integration procedures. Denmark's next report would give an account of that committee's work and of the results achieved, and would clearly show that the Government of Denmark aspired to a policy of equality. Moreover, relations between the Government of Denmark and ethnic minorities were institutionalized. For example, the latter could advise the Ministry of the Interior through a minorities' council. The next report would also reply to the difficult question of indicators of the success of the integration policy. Both the Council of Europe and the Danish Committee on Integration were currently perfecting those indicators and their efforts should shortly bear fruit.

28. The Danish Refugee Council, in which the Committee had shown some interest, was a typically Danish organization as it was an NGO whose activities in the field of integration were Government-funded. The Council took responsibility for refugees for 18 months in order to prepare them for life in Denmark, after which they became the responsibility of the town councils. With the assistance of the Committee on Integration, the town councils should be able to take responsibility for refugees as soon as they arrived, as had been the case with the influx of Bosnian refugees.

29. As had been observed, it was true that refugees had to wait quite a long time before receiving their residence permit. They were initially given the special status of asylum-seeker, under which they had neither the same rights nor the same obligations as other refugees; for example, they were not liable to taxation. The decision on their case took a long time, only one third of asylum-seekers being granted residence permits. As the decision occasionally took from two to three years, measures had been introduced, in particular a bill, to enable both adults and children to be given instruction to prepare them for life in Denmark or in their country of origin.

30. She provided the Committee with information on one issue that was not covered in the report: family reunion. One of the experts had pointed out that a refugee who wished to bring in his family had to prove that he was capable of supporting them. When a question had been raised as to possible incompatibility with the European Convention on Human Rights, no incompatibility had been found. In view of the similarity between the European Convention and the International Convention on the Elimination of All Forms of Racial Discrimination, it appeared that the measure in question was not incompatible with the latter Convention either. However, it should be emphasized that the rule was optional. When it was resorted to, what counted was the candidate's relationship with Denmark. It was undoubtedly easier for a Danish citizen than for a refugee to reunify his family with him, and easier for the latter than for an immigrant. In December 1995 the rule had been relaxed and the number of years already spent in Denmark taken into account. After seven years a refugee or immigrant was virtually a citizen. However, it certainly was government policy to restrict the possibility of family reunion; for that reason, persons aged over 60 had little chance of joining their children in Denmark. In practice, the number of cases of reunion had fallen from 8,000 in 1992 to 6,000 in 1994.

31. Mrs. HOLT (Denmark) said that, in order to combat the high rate of unemployment among minorities and refugees, the Government emphasized education and vocational training for unskilled unemployed persons. The regional employment services also took part in those efforts. For example, the public employment service for the Copenhagen region, where approximately 40 per cent of immigrant workers lived, had implemented rotating job schemes for migrant workers and refugees.

32. The Government was also trying to combat the discrimination that could affect immigrant workers, either at the recruitment stage or in their relations with their employers, colleagues and the various representatives of the public services. To that end, the Government had launched a programme of action designed to remove the hurdles encountered by migrant workers and to facilitate their access to the labour market and their integration within

Danish society. It was preferable to recognize the contribution made by those workers to Denmark rather than solely to emphasize their lack of skills, which might indirectly encourage discriminatory practices.

33. It had been asked whether the Government had any long-term plans for ensuring that the composition of all public agencies reflected the ethnic composition of the population. The Government recognized that it had a particular responsibility in that respect and would address the issue in its next report. The town council of Arrhus and the Copenhagen regional employment service had already taken measures to hire more people from ethnic minorities.

34. In 1994 the Documentation and Advisory Centre for Racial Discrimination had submitted a complaint to the Ombudsman accusing the Ministry of Labour of ignoring the discriminatory nature of certain job advertisements transmitted to the public employment service. The Government had sent a circular to the service's personnel reminding them that such practices were strictly prohibited.

35. As far as job security for immigrant workers was concerned, there was no reason to doubt the findings of the study carried out into the matter by the Centre for Alternative Social Analyses. However, it should be emphasized that the study was a preliminary one and concerned a limited number of workers. Whatever the case, the labour inspectorate had launched an information campaign to advise immigrant workers, through brochures translated into several languages, of their rights and duties. It had also reminded employers of their obligations, especially the obligation to report any industrial accidents.

36. Mrs. PETERSEN (Denmark) said that responsibility for drafting a bill on the prohibition of discrimination on the labour market had been entrusted to the Ministry of Labour, which had taken its inspiration from the Act on equal treatment for men and women, whose effectiveness had been demonstrated. The purpose of the bill, which was set to be adopted by Parliament in early summer and to come into force on 1 July 1996, was to implement the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination. The bill prohibited all forms of discrimination based on race, colour, religion, political opinion, nationality and social or ethnic origin in the fields of employment opportunities, recruitment, promotion, wages, working conditions or access to vocational training. The Act would not prevent Parliament from adopting other legislation nor the public authorities from taking measures to ensure that persons from a specific ethnic minority could obtain employment on equal terms.

37. Mr. KLINGENBERG (Denmark), turning to the question of education, said that pursuant to Ordinance No. 583 of November 1984, children who did not speak Danish when they started school were brought together in induction classes where they were given appropriate teaching to allow them, after one or two years, to join a regular class of Danish-speaking children. As it was not possible to arrange induction classes in all district schools, the children concerned were bussed to schools where such classes operated. The Ministry of Education believed that the arrangement satisfied a pedagogical need and was in no way contrary to the provisions of the Convention. In addition,

according to the Ministry, the percentage of children from ethnic minorities among schoolchildren would be 9 per cent in five years' time in comparison with six currently.

38. Where compulsory education was concerned, he said that the Constitution allowed parents to send their children to a private elementary school. In order to be approved by the State and to be eligible for grants, the schools had to provide teaching equivalent to that dispensed by State schools. Ethnic or religious minorities who wished to do so could set up private elementary schools. Under the Act on State schools, the task of State schools was to familiarize pupils with Danish culture and to help them to understand other cultures. The schools were also required to develop children's sense of responsibility and to teach them their rights and duties in a free and democratic society.

39. He said that the Government would examine the possibility of having the reports of the Board for Ethnic Equality and the Council of Ethnic Minorities translated to allow those members of the Committee who so wished to examine them.

40. Denmark's report and the Committee's conclusions and recommendations would be sent to the various ministries concerned and to the Parliamentary Legal Affairs Commission. The Government also planned to publish them in a twice-weekly publication of the Ministry of the Interior, intended in particular for immigrants and aliens living in Denmark.

41. The observations made by the Committee in connection with articles 5, 6 and 7 of the Convention, paragraphs 47 and 48 of the report, Greenland and the absence of a representative of the Ministry of Education in the delegation would be duly taken into consideration by the Government.

42. Mr. SHERIFIS asked what the exact rate of unemployment was among immigrant workers and requested details of the role of the Board for Ethnic Equality (report, para. 8), especially with regard to Danish citizens who were not of Scandinavian origin.

43. He welcomed the initiatives taken to end discrimination (see para. 10) and the absence of discrimination against women. Finally, he drew attention to the fact that Denmark had made the declaration provided for by article 14 of the Convention and had ratified the amendment to its article 8.

44. Mr. VALENCIA RODRIGUEZ noted with satisfaction that Denmark accepted numerous asylum-seekers, especially from Bosnia and Herzegovina. However, he asked whether a system of temporary protection had been provided for to meet their needs while they waited for their residence permits, which frequently took from two to three years.

45. Mr. van BOVEN thanked the Danish delegation for having provided such complete information. He was none the less surprised by the small number of communications received under article 14 of the Convention and wondered whether it was because the Danish public was unfamiliar with that procedure. He suggested that the Danish delegation might help the Committee to understand the reasons for that.

46. Mr. YUTZIS said he wished to ask the Danish delegation three questions. First of all, he too was puzzled by the small number of communications submitted under article 14 of the Convention and wondered why there had been so few. He would also appreciate further information on the methods used to train the federal police and prison personnel. He asked whether the courses given highlighted the cultural differences between Danes and aliens and their respective prejudices and whether there were any follow-up and evaluation mechanisms. Lastly, while he commended the efforts of the Board for Ethnic Equality, he was disturbed by the existence in Denmark of "intolerance which springs from a general and often irrational fear of social change and of strangers", as referred to in paragraph 15 of the report. It was deplorable that such intolerance, which was frequently associated with xenophobia, was developing in Europe. Accordingly, he asked what the Danish Government was planning to do not only to combat that phenomenon but also to prevent it. He hoped that any concrete measures that might be taken to achieve that would be described in Denmark's next report.

47. Mr. RECHETOV said he found the economic and social situation of Greenland's population disturbing and hoped that Denmark's next report would contain full information on that subject.

48. Mr. BANTON (Country Rapporteur) recalled that in 1988 the Committee had adopted a suggestion that States parties should submit a complete report every four years and a brief update during the intervening period. However, in view of the amount of new information to be included, Denmark's thirteenth periodic report could not be brief. Accordingly, he suggested that only a summary of the various relevant sections of legal instruments or reports in Danish should be submitted to the Committee, in order to alleviate the workload of translating those documents.

49. Turning to a number of questions raised during the consideration of the report, he pointed out, in connection with the right to security of person, that no citizen of a European country could claim to enjoy total security of person but that the risks were always higher for aliens, even though Denmark took all necessary measures to ensure their protection.

50. He did not share Mrs. Christensen's view that the Danish Government had no source of information on cases of discrimination other than the complaints lodged with the courts. In some countries, in the course of investigations on crime, representative groups of the population were questioned about their experience with crime. In addition, experimental studies carried out, for example, by ILO in the field of employment provided far more reliable empirical evidence on the extent of discrimination than officially filed complaints.

51. He would also appreciate more detailed information on the organization of the induction classes set up by the Danish Government for the children of immigrants. It would be interesting to know whether all municipalities planned to organize such classes, how long the children remained in them and who decided how long they should attend them.

52. The Danish delegation had not clarified whether the decision by the High Court in the case concerning the town of Ishøj might not hinder the dispersal policy implemented by the Byudvalget in the field of housing to prevent the development of aliens' ghettos, and he hoped the matter would be covered by Denmark's next periodic report. The report should also include information on the situation of the Inuit in Greenland to clarify, in particular, the status of the claims for compensation for expulsion they had filed in 1959 and 1985.

53. Mr. KLINGENBERG (Denmark) said that he had taken due note of all the questions raised. The next report would contain an assessment by the Ministry of Housing on the proper interpretation of the High Court's decision concerning the assignment of housing to aliens. He suggested that the small number of communications submitted under article 14 of the Convention might be attributable to the lack of public awareness of the existence of that procedure and that it might be appropriate for the Committee to raise the matter in the "suggestions and recommendations" section of its conclusions on the consideration of Denmark's report, which the Government would not fail to disseminate. He also informed Mr. Rechetov that the Danish Government was currently preparing a detailed report on the performance of its obligations under the International Covenant on Economic, Social and Cultural Rights which would deal with the relevant situation in Greenland, and that the information in question should be reflected in Denmark's thirteenth report to the Committee. Finally, he assured Mr. Banton that the discussions over compensation for the Inuit were continuing with the Prime Minister's Cabinet.

54. Mrs. HOLT (Denmark) said, in reply to Mr. Sherifis, that the immigrants most seriously affected by unemployment were those from Turkey, Yugoslavia and Pakistan. The rate of unemployment among them was 35 per cent, in contrast with 12.2 per cent for Denmark's economically active population as a whole.

55. Mrs. CHRISTENSEN (Denmark), replying to Mr. Valencia Rodriguez's question on asylum-seekers, said that, under the Aliens Act, the State was required to cover the expenses of asylum seekers (housing, food, pocket money) until a decision had been taken on them.

56. The CHAIRMAN thanked the Danish delegation for the wealth of detailed information with which it had provided the Committee. He hoped that the next report, which was due in 1997, would reply to all the questions left unanswered and that the dialogue initiated with the Danish delegation would continue. The Committee had thus completed the first part of its consideration of the twelfth periodic report of Denmark.

57. The delegation of Denmark withdrew.

The meeting rose at 1 p.m.